

# No Clarity in McCleary

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**NO CLARITY IN MCCLEARY:** Little illustrates the tone-deaf dysfunction and gridlock of state government more than Sen. Doug Ericksen calling for a tax cut as the Washington Supreme Court hands down fines for the state's failure to fund basic education, a constitutional duty.

The court last week delivered a unanimous order that made good on its earlier threat of sanctions, slamming the state for failing to come up with a plan to adequately fund K-12 education, as required by its 2012 *McCleary* decision. The court in September held the state in contempt, but agreed to hold off on any punishment until the end of the 2015 legislative session.

Yet, despite a record 176-day session and a two-year budget agreement that moved the state forward on key issues, the court said lawmakers had again failed to live up to what the state constitution calls the state's "paramount" duty—amply funding schools.

"The Supreme Court acknowledges that significant progress has been made toward meeting the state's obligation to adequately fund basic education. But everyone understood that even with those historic investments in education, our work would not be done," Gov. Jay Inslee announced.

"The court today made it clear that bolder and more aggressive action is needed to support Washington's students and their teachers. The detailed plan the court demands in order to fulfill our constitutional obligation will be more complex and expensive than the significant steps we've already taken," he said.

Inslee initiated a conference call to begin the necessary steps to call a special session to deal with the ramifications of court sanctions.

"I was not surprised by today's decision," Sen. Kevin Ranker said. "The issue at the very heart of the McCleary decision is that the state, not local school districts, must pay for teacher salaries.

"In the end, we agreed on the policy and the \$3.5 billion price tag, but couldn't reach agreement on how to pay for it," the Orcas Island Democrat said..

"Republicans wanted to pay for it through the largest property tax increase in state history, a move that would have been felt by more than two million homeowners throughout our state. Democrats pushed for a high-earners capital gains tax which would have been paid by just 7,500 of Washington's millionaires and billionaires or a tax on polluters which would have raised a billion per year for education.

"While we couldn't reach agreement on how to pay for it, Democrats and Republicans agreed that the only way to responsibly pay for it is through revenue and not through cuts to other critical programs."

Ranker should tell that to Ericksen. The Ferndale lawmaker crowed last week that state sales tax revenues were overabundant, and that revenues ought to be returned to the citizens of Washington state.

The monthly economic and revenue report issued by forecasters suggest summer retail activity could deliver \$107 million more to state coffers than projected in June, an 8 percent increase. That means the state has a total of \$125 million in additional revenue since the last revenue forecast May 18, Ericksen reported.

"That makes \$775 million in unexpected tax money that we have gotten since the beginning of the year, and that's plenty," Ericksen said. "Instead of bowing to temptation and spending this new hundred-million-dollar windfall, as we so often do, we ought to find a way to return it to the people of Washington state."

In one sense, Ericksen is correct. The state's over-reliance on sales tax creates conditions of feast or famine. When the sales economy is roaring, revenues are robust; in economic downturn, the state starves. Moreover, the highly regressive tax has proven a poor net to capture the sorts of economic prosperity the state has actually witnessed over half a century.

Ericksen's comments completely ignore that more than \$5 billion was slashed out of the state budget in the last economic downturn, and disregard the requirements of *McCleary*.

"Since it was first enacted in 1935, the sales tax has become a less effective and less adequate instrument for funding public priorities," analysts at the Washington State Budget & Policy Center noted. "One reason is that the tax has failed to keep pace with changes in the economy and consumer spending.

“The sales tax was enacted at time when consumers spent most of their money on tangible, manufactured goods,” analysts explained. “Since then, the economy has changed significantly, and consumers now spend a greater share of their incomes on services.”

In 1952, purchases of goods accounted for about 59 percent of personal consumption expenditures, while services accounted for 41 percent of expenditures. By 2015, this division has reversed, with poorly captured services making up approximately 67 percent of personal expenditures. As a result, state revenues as a share of personal income has been collapsing, falling by nearly 30 percent over the past 30 years and on a trend that will continue to decline, according to the state Office of Financial Management.

“The disconnect between Washington’s tax system and the growth of our overall economy and demand for services is the result of a variety of factors,” OFM reports, including numerous tax breaks delivered to the most prosperous sectors of the state economy and shifts in consumer spending out of state.

The predicament of the Legislature is there is broad agreement not to further burden the sales tax model, but virtually no agreement on how to tap into sources of revenue that are untouched and vibrant.

“I hope that when we solve this problem we do so in a way that doesn’t double down on our state’s already unfair tax structure,” Ranker said. “I hope we do so in a way that asks the wealthiest in our communities to pay a little more or asks polluters to pay for the impact they have on the environment and the health of our communities.”

It seems unlikely, with Ericksen in a key position to say no.